

APRIL 2023 > 30 SEPTEMBER 2023

# NON-RECEPTION POLICY

## Dashboard



# Chronology



## 29/06 Court of First Instance issues final judgment

The Brussels Labor Court has jointly and severally ordered Fedasil and the Belgian State to provide daily showers, meals, mattresses, blankets, clothing and medical assistance to asylum seekers living in the Rue de la Loi ("Toe toe Nicole") occupation, next to the headquarters of Nicole de Moor's CD&V party.

Although the judgment is enforceable, the State will refuse to implement it.

Following a class action brought by 10 NGOs, the Brussels Court of First Instance condemned on the merits the Belgian State for violating the right of access to the asylum procedure. It also condemned the Belgian State and Fedasil jointly and severally for violating the right of reception and failing to comply with court rulings. The State's argument of force majeure was rejected. The State and Fedasil are ordered to take all necessary measures, without delay and under penalty of fines.

## 29/06 Order from Labour court regarding occupation of rue de la Loi



## 5/07 - Statement by the European Commissioner for Justice on the state of the rule of law in Belgium

Belgium is condemned for violating the right to a fair trial in the Camara case, highlighting "a systemic failure by the Belgian authorities to execute final court decisions relating to the reception of applicants for international protection".

Following the publication of the European Commission's 2022 report on the rule of law, the European Commissioner for Justice, Didier Reynders, asserts that in Belgium, there is a problem with the execution of a large number of decisions, mainly in the field of asylum, and that the public authorities must set an example: "when a decision is final, it must be executed".

## 18/07 - Belgium condemned by the European Court of Human Rights



## 29/08 - Announcement of the suspension of the reception of single men

Myria, the Federal Institute for Human Rights (IFDH), the Federal Ombudsman, Unia, the General Representative for Children's rights, the Kinderrechtencommissariaat, the Institute for Gender Equality and the Interfederal Service fighting against Poverty jointly denounce, in a "carte blanche" entitled "Human rights also apply to single men seeking asylum", the decision to temporarily exclude single men from the right to reception.

Nicole de Moor, Secretary of State for Asylum and Migration, has issued a press release announcing her decision to temporarily suspend, for an indefinite period, the reception of single men seeking international protection. She will soon be supported by the Prime Minister, and this decision will be validated on 01/09 in Kern.

## 12/09 - Human rights institutions denounce the situation



**X** **13/09 - Conseil d'Etat ruling on the suspension of reception**

The country's highest administrative court ruled in favor of the associations, suspending the government's decision to freeze the reception of unaccompanied men as illegal. Despite this ruling, the Secretary of State announced that she would not change her policy.

The occupants of the rue de La Loi building, after being served with an eviction notice, are moving into tents in Flagey (Ixelles), with the help of associations. The 80 people concerned will soon be rehoused by the Brussels Region, as part of the homelessness scheme.

**15/09 - A camp in the heart of Brussels**



 **29/09 - Public reaction from UNHCR**

The United Nations Refugee Agency (UNHCR) is particularly concerned about the deteriorating mental and physical health of thousands of applicants for international protection who are forced to sleep outdoors. UNHCR believes that this precarious situation exacerbates the traumas experienced by people in their countries of origin or on the road to Europe. For UNHCR, however, solutions are within reach.

Myria, the Federal Institute for Human Rights (IFDH), the Federal Ombudsman, Unia, the General Representative for Children's rights, the Kinderrechtencommissariaat, the Institute for Gender Equality and the Interfederal Service fighting against Poverty are calling on the international authorities to pressure Belgium to comply and put an immediate end to this situation. They also invite the Special Rapporteurs of the United Nations, the European Commission, the Commissioner for Human Rights and the Special Representative of the Council of Europe on Migration and Refugees to come to Belgium and observe these human rights violations on the ground.

**2/10 - Calling on international authorities by human rights institutions**



 **Early October**

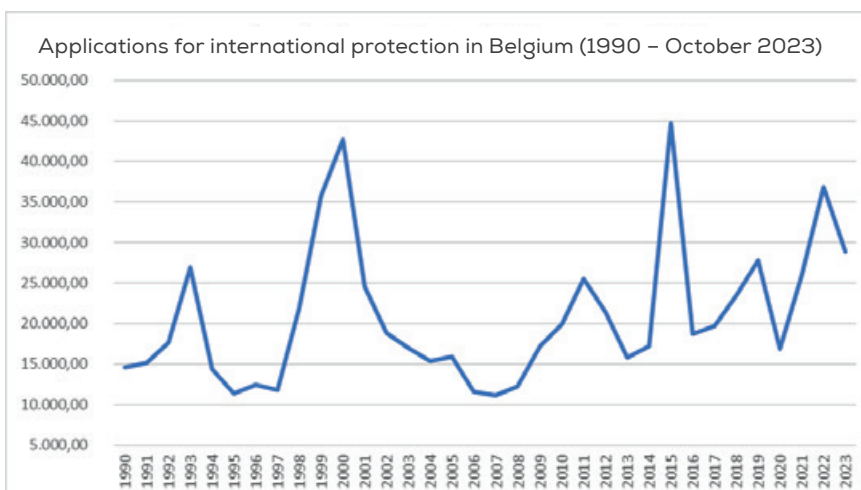
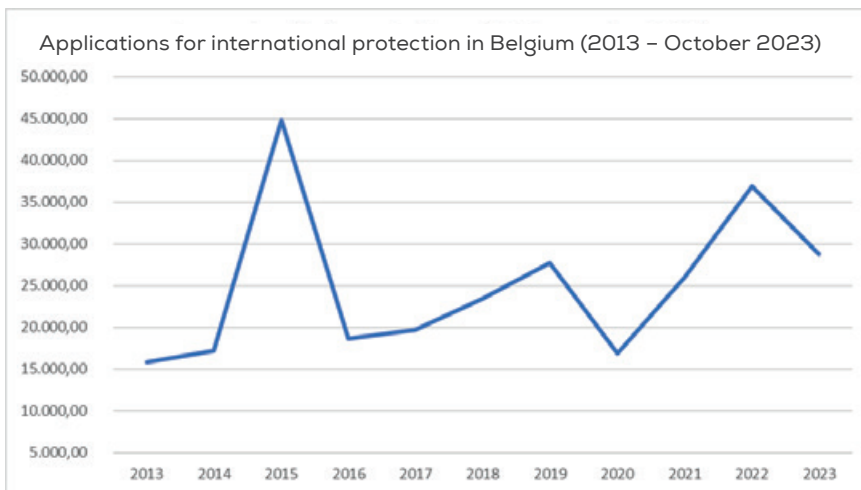
Over 8,000 Fedasil convictions by the Labor court and 2,638 people waiting for a reception place.

# Context

## A DISASTROUS SITUATION - THE RECEPTION OF APPLICANTS FOR INTERNATIONAL PROTECTION (AIP): A FUNDAMENTAL RIGHT FLOUTED FOR THE PAST TWO YEARS

In May 2023, we published a first report on the reception “crisis”. Data collected by seven organisations provided an insight into the plight of international protection applicants seeking reception. The data collected allows us to provide an overview of the direct consequences of the misnamed reception “crisis”.

Our aim is to draw the attention of policy-makers to the urgent humanitarian needs of people who are denied reception. Unfortunately, since the publication of our first report, the situation on the ground has not improved. Since May, the denial of reception has become routine. Given its scale and its length, it can no longer be considered as an unpredictable and unmanageable “crisis” of reception. One can only interpret this state of affairs as evidence of a political desire to deny reception.



Despite what the government claims, solutions do exist.

We have been repeating them tirelessly over the past two years.

One of the solutions, provided for by law in the event of saturation of the reception network and a lack of space, is to activate a compulsory distribution plan for applicants for international protection within municipalities. This would require Belgian municipalities to welcome an average of five applicants for international protection. The activation of this distribution plan, which can only be triggered by a political decision at the level of the federal government, would relieve pressure on the reception network and enable all reception beneficiaries to be welcomed with dignity, without distinction based on gender or family composition, in compliance with our international obligations.

## BELGIUM IN CONTINUOUS VIOLATION OF THE FUNDAMENTAL PRINCIPLES OF THE RULE OF LAW

For months, despite the gravity of the situation, the policies have not changed. This is regardless of the legal victory of our organizations at the Brussels Court of First Instance in June. This decision condemned the Belgian state and Fedasil for violating their international obligations with respect to asylum and reception, and for failing to comply with relevant court rulings.

In July, the European Court of Human Rights, which had already issued more than 1,700 provisional measures against Belgium, condemned the Belgian state on the merits for failing to provide a reception facility for an asylum seeker, despite a court decision obliging it to do so.

## SYSTEMATIC REFUSAL OF RECEPTION AS THE NEW NORMAL

At the end of August 2023, instead of complying with the numerous court rulings and its international obligations, the Secretary of State for Asylum and Migration, backed by the Prime Minister, announced that single men seeking international protection would no longer be allocated reception places, until further notice.

The federal government has not merely assumed the denial of reception but has amplified it.

In September 2023, this illegal measure was quickly suspended by the Conseil d'Etat following an appeal by various associations, but it remains applicable in practice. As a result, single men will not be allocated a reception place on the day they apply for international protection, and will have to wait indefinitely for a reception place. If they can't find a solution via their network of acquaintances or through the emergency shelter for the homeless in Brussels (which is saturated), they are forced to survive on the streets or in squats.

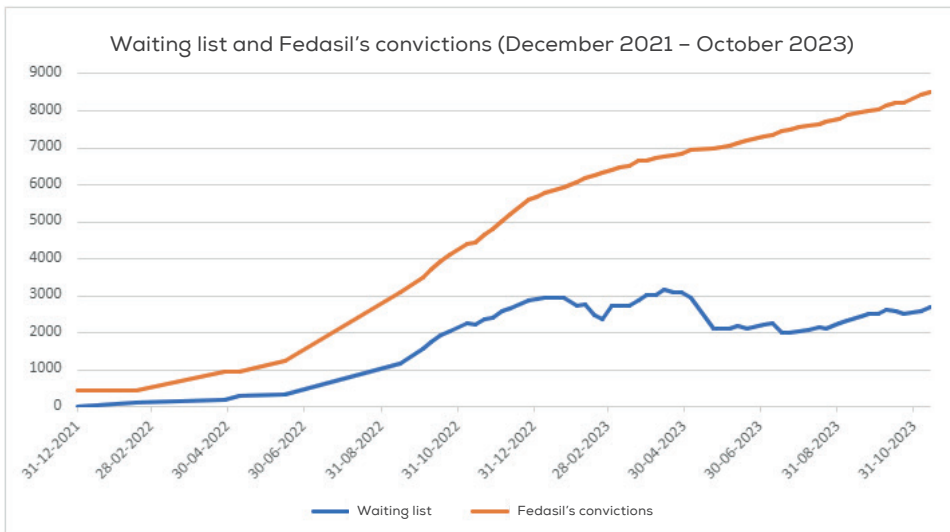
The human cost of this situation is immense.

## THE REALITY OF A NON-RECEPTION POLICY

As already mentioned, we are publishing a second report on this disastrous situation. Today, the federal government is still doing too little to solve this unacceptable situation. The reception measures set out in the March 2023 "political agreement to end the crisis" are largely insufficient and are not being respected. For example, the containers for applicants for international protection proposed by the European Union Asylum Agency (EUAA) were never set up, and the number of new reception places to be created locally and voluntary was never reached. We remain convinced, as stated by the court of first instance, that the federal government can and must do more to resolve this denial of reception.

It is clear that the number of applications for international protection has been rising steadily since May, and will probably peak in late autumn. Unless the federal government takes further decisive steps, we are likely to face a winter similar to that of 2022.

At the beginning of October, over 2,600 people were still waiting for a reception place, and the reception network is still saturated. In addition, Fedasil has been condemned more than 8,000 times for failing to provide shelter since the beginning of the shelter “crisis”.



We expect the federal government to put an immediate end to this reception denial.

We reject indignity as the new norm.



# Impact on people and access to services

The direct consequence of this crisis is first and foremost the lack of reception places and therefore, the precarious situation with which applicants for international protection (among others) are confronted.

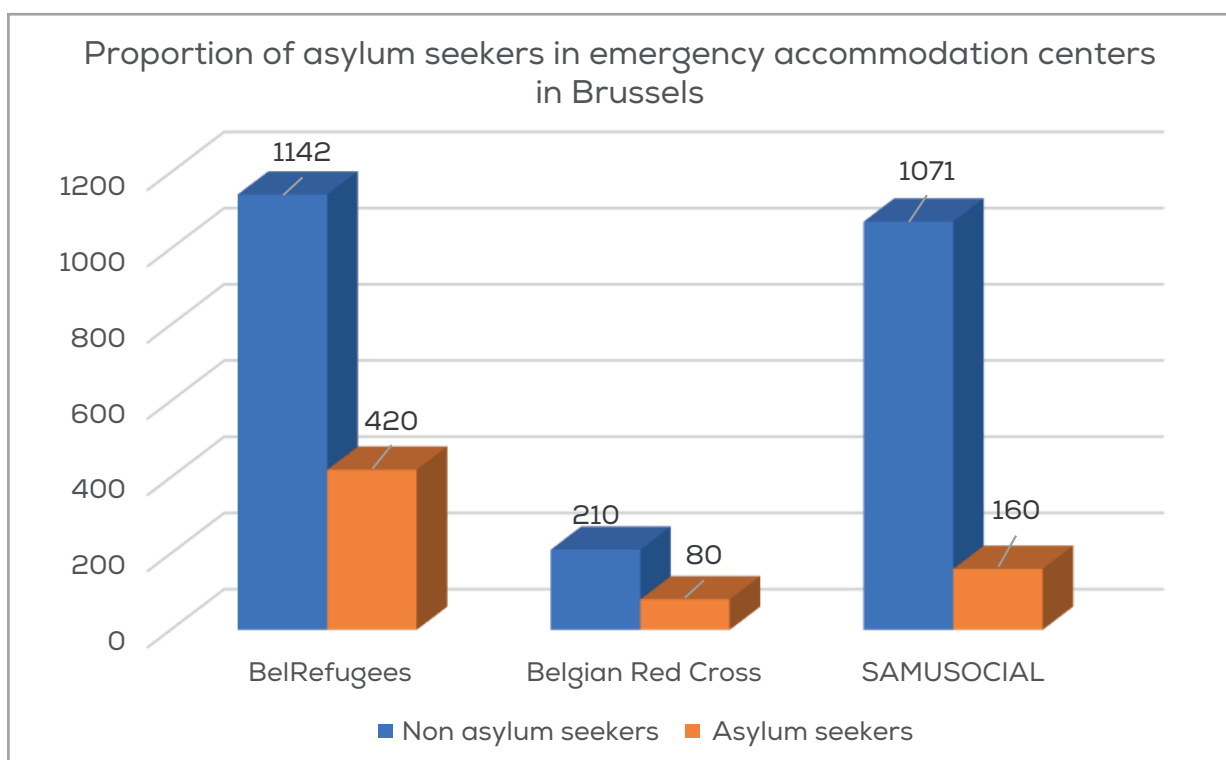
Data on how these services are used by applicants for international protection were collected by the Humanitarian HUB and the network of emergency shelters.

The data highlights the fact that requests for accommodation are the main request of applicants for international protection.

## EMERGENCY ACCOMMODATION NETWORK ( BELREFUGEES, BELGIAN RED CROSS, SAMUSOCIAL)

The network currently has **2,468** places. This number is clearly insufficient and fails to meet the needs of homeless people in Brussels. As of November 2022, we counted 7,134 homeless people in Brussels. This situation creates strenuous competition among different groups for the places available in the network. Moreover, it forces providers to turn away single men on a daily basis, as well as women and families, sometimes with young children.

The Brussels' deal has allowed to maintain current capacity levels and create a limited number of new places. Sadly, this is only possible with reduced funding, which does not cover the costs of decent, quality care respectful of the well-being of workers. However, the increase in the number of places is not without consequences. Operators are increasingly challenged by the proportion of applicants for international protection they receive. This jeopardizes the principle of unconditionality essential to the smooth running of the reception process.



The policy of non-reception funnels unaccompanied men seeking international protection towards a life on the street and compromises their automatic access to rights. This lack of access to rights accentuates the vulnerability of these populations (non-speakers, non-literate, in situations of psychological distress, without access to the Internet, lacking the resources to find information, etc.).

The policy of non-attendance makes their situation even more precarious. Moreover, this policy increases frustrations in the field and creates tensions between the public and the workers. We also note tensions between the search for suitable infrastructure and the municipalities hosting these centers.

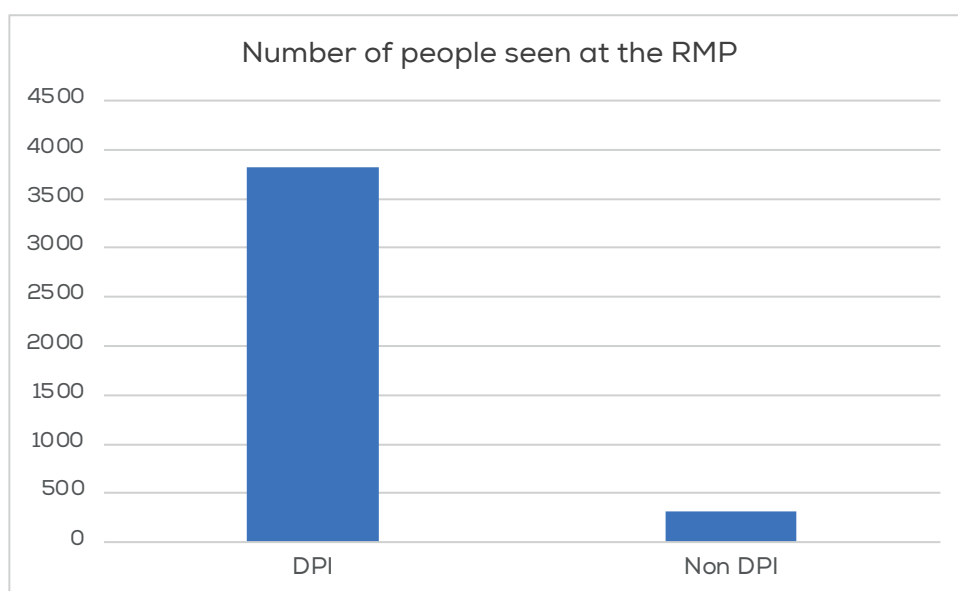
### THE IMPORTANCE OF THE REFUGEE MEDICAL POINT - BELGIAN RED CROSS

The Refugee Medical Point (RMP) opened in early 2023, taking over from the Refugee Medical Point organized by MSF and the Red Cross mobile clinic set up opposite the squat located on rue des Palais.

The RMP is a front-line service offering unconditional, low-threshold access to basic healthcare for all people in difficult situations. Applicants for international protection make up 92% of those affected.

Beneficiaries have access to front-line medical and psychological consultations, nursing care and health-related administrative and social support. The RMP is designed as a response to the reception crisis, as it is aimed first and foremost at applicants for international protection, notably through the presence of cultural mediators.

65% of RMP beneficiaries live on the streets, and have developed numerous pathologies directly linked to this situation (skin problems, wound care, respiratory infections). This situation also has a catastrophic impact on the mental health of beneficiaries, which deteriorates the longer they live on the streets.





## THE ROLE OF THE HUMANITARIAN HUB

As mentioned above, the direct consequence of this crisis is the lack of reception places and therefore the precarious life to which the applicants for international protection (among others) are exposed.

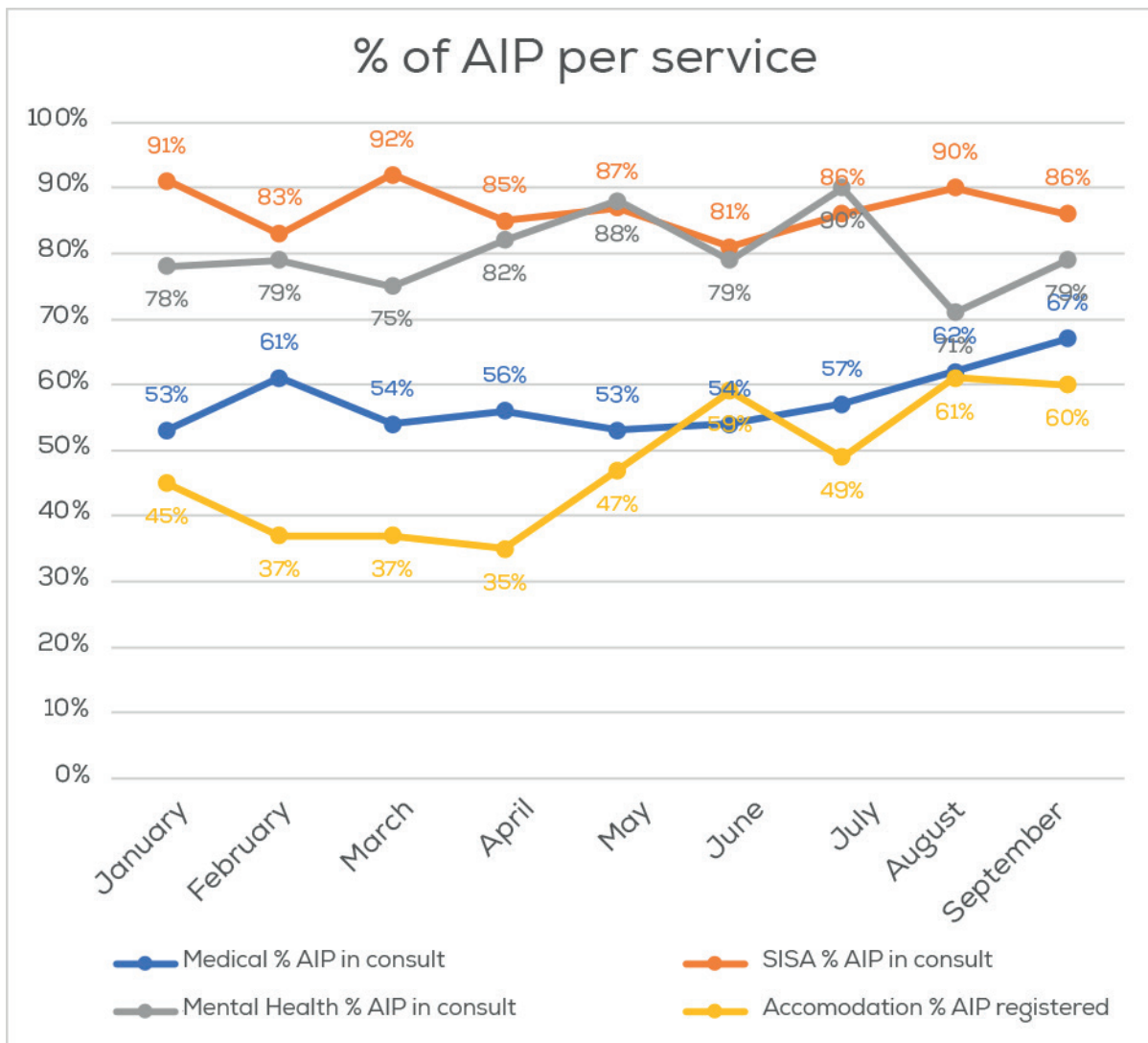
If previously we saw the number of applicants for international protection increasing monthly, we are now seeing a stabilization in the number at the HUB, with an excess of 50% per department.

The Humanitarian HUB services collect specific information on how the applicants for international protection use their services:

- the Socio-legal and Administrative Information Service (Service d'Information Sociojuridique et Administrative or SISA - Bruxelles Refugees),
- MDM's medical service and
- MSF's mental health department.

Once again, they highlight the fact that accommodation is the main concern for those seeking international protection.

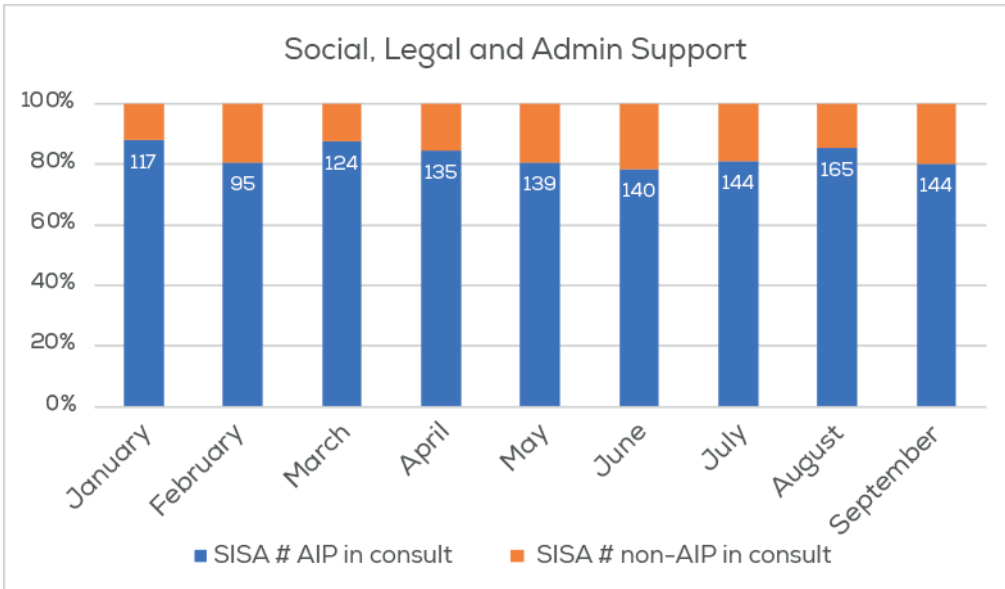
The feedback received is as follows:



## SISA - BRUXELLES REFUGEES (SOCIO-LEGAL AND ADMINISTRATIVE INFORMATION SERVICE)

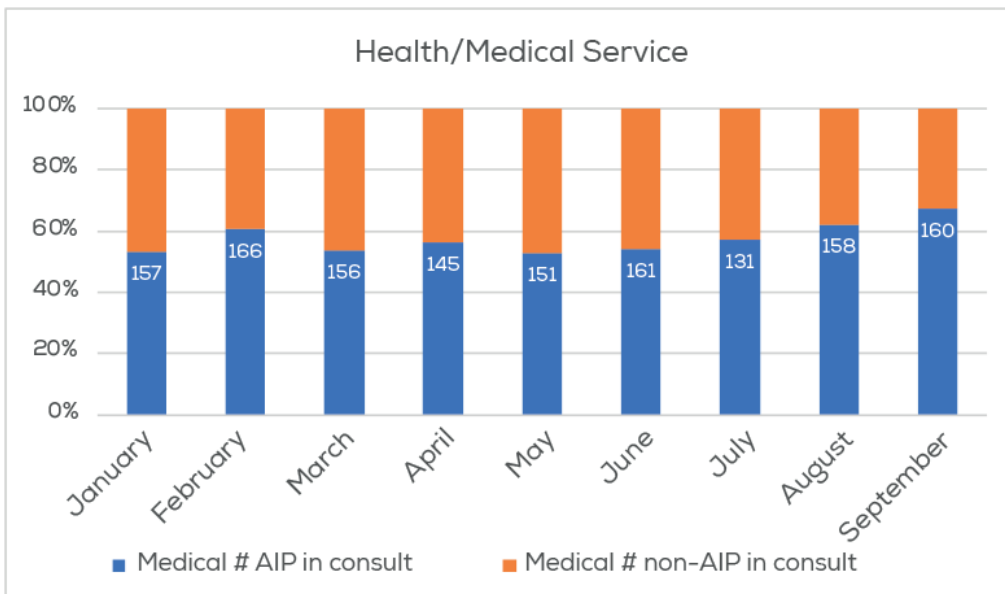
Due to the nature of its socio-legal and administrative support services, SISA regularly encounters applicants for international protection.

Aside from requests specifically linked to international protection procedures (current or Dublin applications), the most frequent requests brought to SISA consultations concern accommodation.



## MDM - MEDICAL CONSULTATIONS

After an increase at the end of 2022, international protection seekers now represent 57% of all monthly consultations. This stabilization shows that the population of international protection seekers has become one of the main beneficiaries of our medical services, which are intended to be a first-line service for those without access to healthcare.



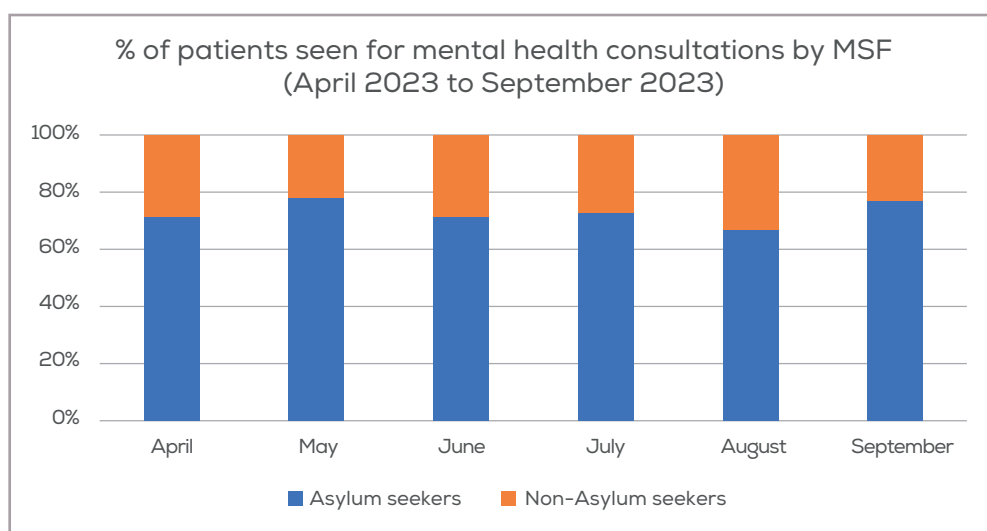
In fact, the service’s capacity is limited on a daily basis by gauges (linked to the availability of volunteer staff). In 2023, pressure on medical services only increased, forcing staff to turn patients away. What’s more, the percentage of applicants for international protection in medical consultations never drops below 50% of total consultations, contributing significantly to the pressure on this service.

### MSF - MENTAL HEALTH CONSULTATION

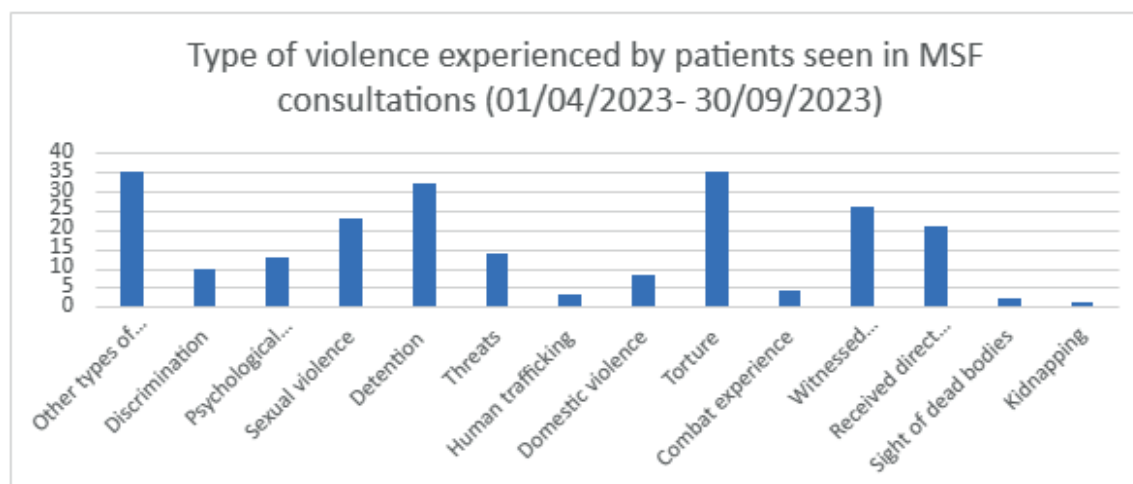
In line with the trend observed in the medical department, the proportion of patients seeking international protection in mental health consultations at the Humanitarian HUB is levelling off after the sharp increase at the end of 2022.

Yet the figures speak for themselves: in mental health, 4 out of 5 patients are seeking international protection (i.e. around 80%).

Although the proportion of people seeking international protection is lower than in the previous report, it is still very high. In the vast majority of cases, we note that the applicants for international protection seen in consultation did not receive medical screening nor psychological consultation, but also do not have access to actual care.



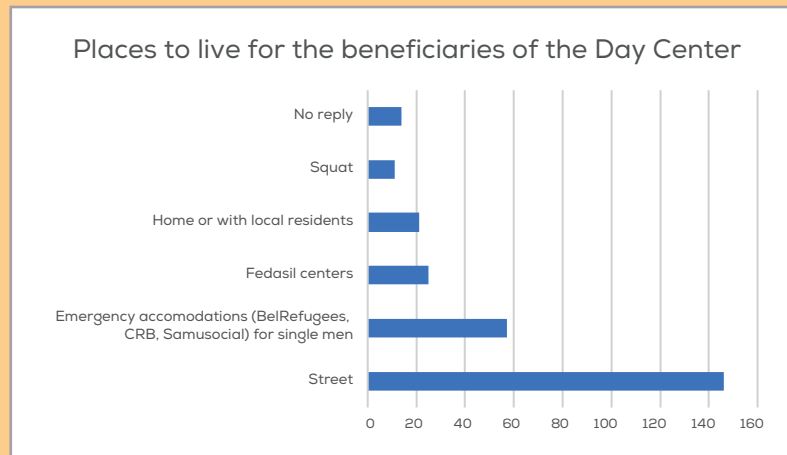
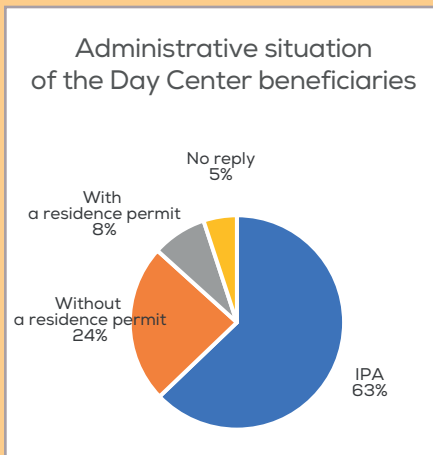
Moreover, the people we meet are very often victims of violence. Many have been victims of torture, arbitrary incarceration or sexual violence. Given the complex psychiatric pathologies of these people, they require specialized, long-term care. Violence is mainly experienced in the country of origin (47%), but also during migration (24%), in Europe (20%) and in Belgium (9%).



# FOCUS

## THE HUB DAY CENTRE

In a study based on data collected at the day center in the week of 4 to 10 July 2023, we note the following:



### APPLICANTS FOR INTERNATIONAL PROTECTION AND ACCESS TO ACCOMMODATION

In 91% of cases, international protection seekers responding to this study have not obtained a Fedasil reception place (only 25 of the 274 international protection seekers claim to be housed in one of the federal centers).

One in 2 applicants for international protection say they have no accommodation, sleeping rough (53.3%) or are in insecure or occupied accommodation (4%).

For one in 5 applicants for international protection, their latest accommodation is in short or medium-term emergency housing (BelRefugees, Red Cross, Samusocial, etc.).

94% of all applicants for international protection live in the Brussels region, 2.1% in Wallonia and 1.8% in Flanders.

### Long-term stays in Belgium

Of the 274 applicants for international protection surveyed, 61 (22%) were accessing the Humanitarian HUB for the first time.

The duration of their stay in Belgium varied from a minimum of one day (arriving in Belgium the day before the survey) to several years (often intermittently). On average, an applicant for international protection has been in Belgium for 8 and a half months.

We have observed that :

- › 15% of respondents seeking international protection are newcomers to Belgium (less than a week on Belgian territory);
- › 1 in 4 applicants for international protection arrived in Belgium less than a month ago
- › 1 in 2 applicants for international protection have been in Belgium for between 1 and 18 months, most of them (38%) for less than 6 months.

## Waiting time between application for international protection and interview

The questionnaire analyses the time elapsed between the moment when the application for international protection was lodged and the interview: the minimum declared was 1 day (the day before the interview) and the maximum ranged up to more than 6 years (margin of error on declarations or applicants for subsequent international protection).

It took an average of 123 days, or 4.1 months, between the submission of the application for international protection and the day of the interview for the 249 respondents without a Fedasil center. This means that, on average, an applicant for international protection has to wait 4 months to obtain a federal place despite applicants for international protection being entitled to a place from the moment they submit their application.

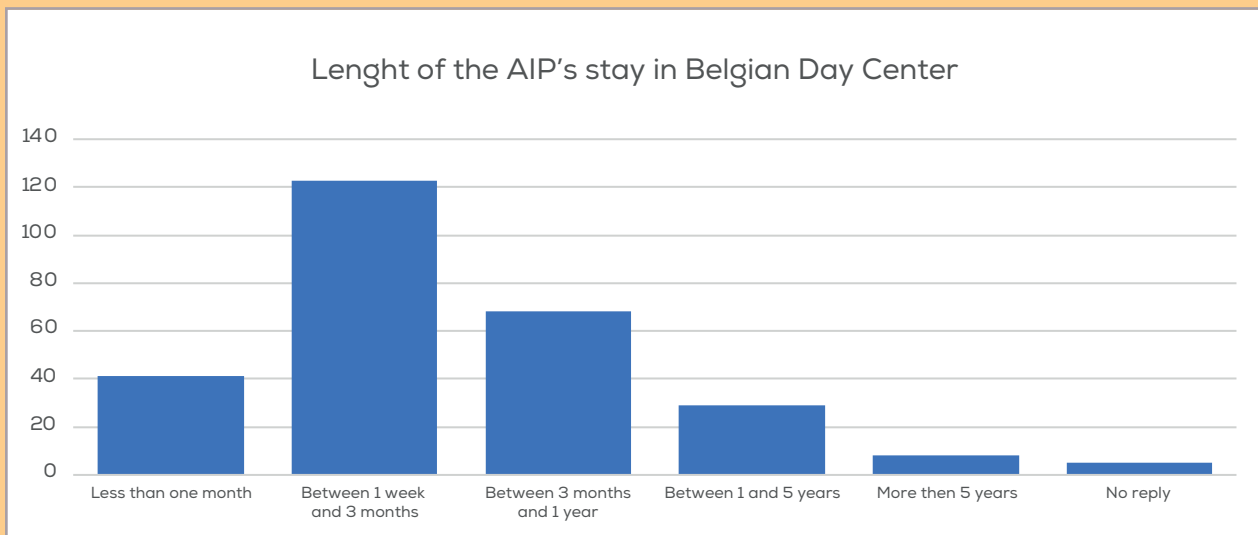
During this period, applicants for international protection are left on the streets (53.3%), in emergency accommodation (20.4%), in squats (4%) or, for a minority, they manage to find other accommodation solutions with relatives.

The **median**, i.e. the mid-point of the distribution of durations excluding the extremes (1 day and 6 years) is 60 days, or 2 months.

The **average** number of days between the application for international protection for the 25 respondents with a Fedasil center is 168 days, or 5.6 months (with a mid-point of 143 days, or 4.7 months).

The **minimum** number of days between the application and the interview for people in accommodation is 21 days, and the **maximum** is 18 months.

This group of respondents comes from federal centers in Brussels (20), but also from regions outside the Brussels-Capital Region, travelling to the Hub Humanaire centers in Wallonia and Flanders.



## The needs the HUB tries to meet

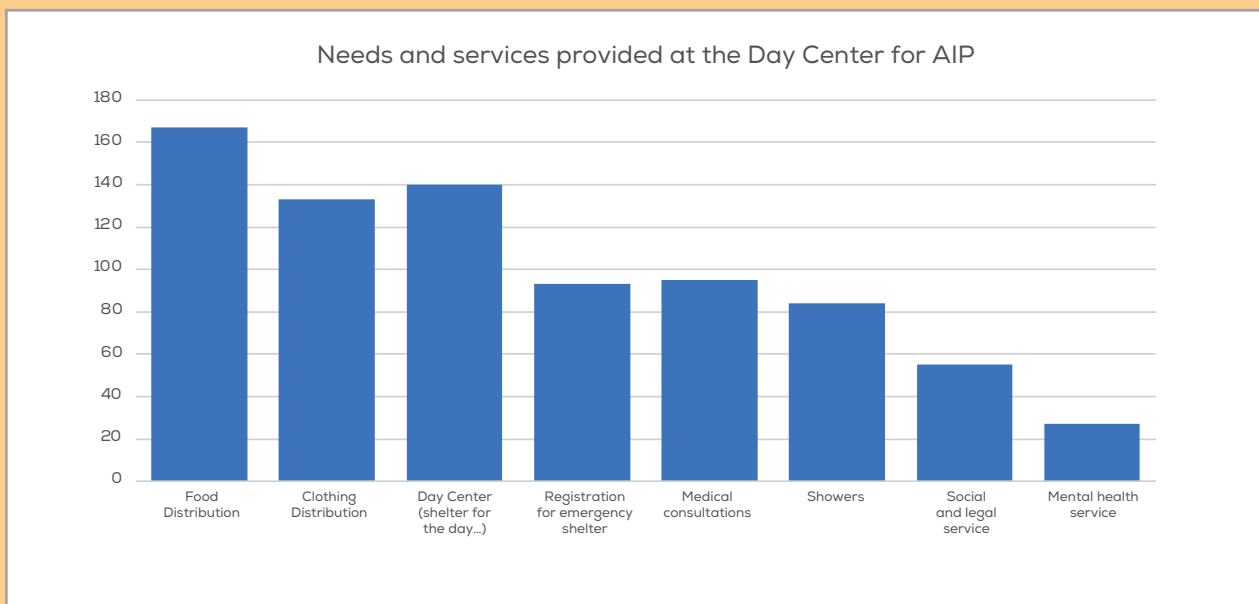
Respondents were asked to list the reasons why they usually come to the Humanitarian Hub, or, for newcomers, the needs they have.

List of Hub needs/services:

- › Request accommodation / registration at the front desk of BelRefugees for a place in collective accommodation
- › Clothing / Clothing distribution
- › Eating / Food distribution
- › Washing / Showers
- › Access to health care / Medical service
- › See a psychologist / Mental health service
- › Legal and administrative information (including asylum) / Socio-legal and administrative information support
- › Staying safe, recharging phones, socializing/meeting people, access to sanitary facilities / Day center
- › Request general information / Social orientation

The 274 applicants for international protection cited basic needs as the main reason for their visit to the HUB. More specifically, the top three reasons were: food distribution, clothing distribution and the need to stay sheltered, recharge their phones and access the day center's sanitary facilities.

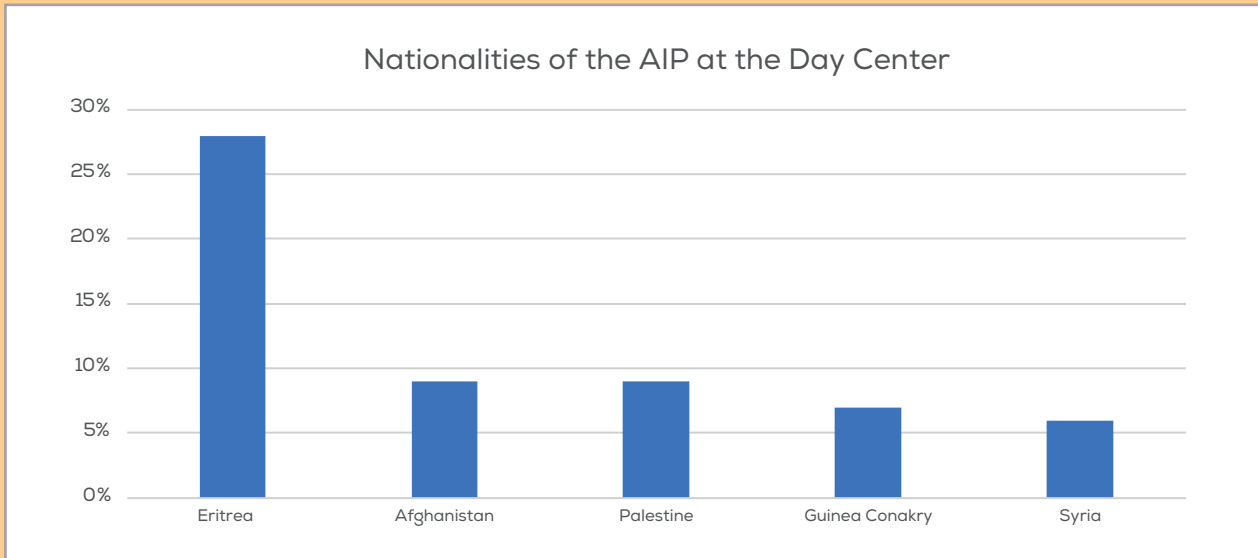
Next, they list PMS psycho-medico-social needs.



## Nationalities at the day center

The 274 applicants for international protection at the day center come from various countries.

In line with the attendance figures for the HUB's other services, beneficiaries of Eritrean origin alone account for 28.5% of those seen, followed by beneficiaries of Afghan and Palestinian origin.



# Special attention to unaccompanied minors

## RECEPTION AND PROFILE OF UNACCOMPANIED MINORS

Fedasil has succeeded in considerably increasing its capacity for unaccompanied minors (UAMs) over the past year.

By the end of 2022, 3,251 places were available. By May 2023, the number of places had risen to 3,458. Today (October 2023), there are 3,528.

The occupancy rate remains very high (around 80%). Even more alarming is the fact that the occupancy rate at the “third phase” shelter remains at 97%.

During the period April-August 2023, there are notable changes in the profiles:

- ▶ In terms of nationality: young Afghans still make up the largest group, but there has been an increase in the number of Eritreans and Syrians, followed by Moroccans and Guineans.
- ▶ In terms of gender: compared with previous months, more girls have applied, often with complex refugee histories, including reports of sexual abuse. This poses a problem for Fedasil’s MENA unit: there don’t seem to be enough places for this specific profile, especially in the “second phase” of reception.
- ▶ There are also challenges for the very young MENA (mainly aged between 11 and 15): their numbers have increased, while the number of suitable reception places remains limited. In response, several appeals have been launched to find foster families, but there is still a pressing shortage of accommodation centers adapted to this profile.
- ▶ An increase in the number of young people with a street profile (i.e. young people who are not primarily interested in applying for international protection). These are mainly young people from the Maghreb, whose profile generally presents a multitude of problems, including severe addictions.

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## THE SPECIAL CASE OF GUARDIANSHIP



In September, 497 new young people were reported. There are currently 3602 young people under guardianship, with a network of 660 (active) guardians, of whom 386 are Dutch-speaking and 274 French-speaking. 517 of these are volunteer guardians, 27 are salaried guardians.

In October 2023, 1,226 young people were still waiting for a tutor. The average waiting time is 6 months on the French side and 9 months on the Dutch side.



# Recommendations

**Given the gravity of the situation and the humanitarian emergency, we ask the federal government:**

- 1) To stop condoning violations of national and international law
- 2) To stop formalizing the denial of hospitality, which concerns too many people whose dignity is greatly affected.
- 3) To activate the federal phase of the national emergency plan, so that Defense and Civil Protection personnel can be requisitioned to set up temporary emergency shelters;
- 4) Provide temporary shelter in hotels for those seeking international protection;
- 5) Activate, as provided for in the Welcome Act and the CPAS Act, a plan to distribute financial aid to CPASs and ILAs (Local Welcome Initiatives) to municipalities;
- 6) Facilitate access to an address/domiciliation for individuals staying for an extended period, in order to provide a solution for opening up rights, but also to free up reception places in emergency centers;
- 7) In addition to providing a reception place for all beneficiaries, to guarantee an adapted reception place for the most vulnerable groups (never again exclude MENA from the network on the basis that there may be doubts about their age or the absence of an age test).
- 8) Ensure unconditional and direct access for all to preventive and curative medical services.

Urgent action is required to avoid a situation similar to that of Winter 2022. We are sure that these solutions exist.



Indeed, the Reception Act contains a compulsory distribution plan for applicants for international protection within municipalities. Activating this plan would enable the federal government to open additional accommodation places in times of shortage. This distribution of new reception places would then be ensured on an equitable basis across the Belgian territory. Thanks to an allocation key, local authorities would have to open a minimum number of places. In this way, local authorities would be able to monitor the process transparently, and thus prevent applicants for international protection from sleeping rough for longer. It would also immediately reduce the pressure on the 90 Belgian communes that currently organize collective reception centers and are responsible for 85% of the total number of reception places.

What is the government waiting for in order to put this distribution plan into action?



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